

16 C.J.S. Constitutional Law § 7

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Constitutional Law

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PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

I. Definitions; Nature and Authority of Constitutions


B. Nature and Authority of Constitutions

1. In General

§ 7. Constitution not subject to suspension, departure, or abandonment

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  502

A constitution may not be suspended, departed from, or abandoned. Constitutional guaranties are not, however, immune from regulation or limitation in the interest of the common good.

Emergencies do not authorize the suspension of a constitution and its guaranties.¹ Rules of expediency cannot be placed above the constitution² however well-intentioned the proponents of the departure from the constitution may be.³

The vitality of constitutional principles also cannot be allowed to yield simply because of a disagreement with them.⁴ Thus, an effort to accommodate community sentiment or the wishes of the majority of the voters, although usually valid and desirable, cannot justify the abandonment of a constitution.⁵

The rights guaranteed by a constitution are not, however, so absolute that they must be exercised under all circumstances and without any qualification but, like other rights, must always be exercised with reasonable regard for the conflicting rights of others.⁶ A constitution is not so rigid that it always mandates the same outcome even when its principles operate on a new set of facts that were previously unknown.⁷

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Footnotes

¹ Ala.—*City of Mobile v. Rouse*, 233 Ala. 622, 173 So. 266, 111 A.L.R. 349 (1937).

² Va.—*Town of Galax v. Appalachian Elec. Power Co.*, 177 Va. 29, 12 S.E.2d 778 (1941).

Effect of difficulty of compliance

Mich.—*Alan v. Wayne County*, 388 Mich. 210, 200 N.W.2d 628, 67 A.L.R.3d 1079 (1972), opinion adhered to on denial of reh'g, 388 Mich. 626, 202 N.W.2d 277 (1972).

§ 7. Constitution not subject to suspension, departure, or..., 16 C.J.S. Constitutional...

- ³ U.S.—*Carter v. Carter Coal Co.*, 298 U.S. 238, 56 S. Ct. 855, 80 L. Ed. 1160 (1936).
N.Y.—*Fink v. Cole*, 302 N.Y. 216, 97 N.E.2d 873 (1951).
- ⁴ U.S.—*Griffin v. County School Bd. of Prince Edward County*, 377 U.S. 218, 84 S. Ct. 1226, 12 L. Ed. 2d 256 (1964);
U.S. v. *Indianola Municipal Separate School Dist.*, 410 F.2d 626 (5th Cir. 1969).
- ⁵ U.S.—*Keyes v. School Dist. No. One, Denver, Colo.*, 303 F. Supp. 279 (D. Colo. 1969), opinion modified on other grounds, 303 F. Supp. 289 (D. Colo. 1969).
- ⁶ U.S.—*Pierce v. Turner*, 276 F. Supp. 289 (D. Utah 1967), judgment aff'd, 402 F.2d 109 (10th Cir. 1968).
- ⁷ U.S.—*Kitchen v. Herbert*, 961 F. Supp. 2d 1181 (D. Utah 2013), judgment aff'd, 755 F.3d 1193 (10th Cir. 2014), cert. denied, 135 S. Ct. 265, 190 L. Ed. 2d 138 (2014).

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